

## Message Text

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DRAFTED BY: EB/ ORF/ TRP: R. C. SCISSORS

APPROVED BY: EB/ ORF/ TRP: R. C. SCISSORS

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R 142317 Z MAY 73

FM SECSTATE WASHDC

TO AMEMBASSY LONDON

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THE FOLLOWING SENT ACTION SECSTATE INFO RIO DE JANEIRO FROM  
BRASILIA 12 MAY 1973 REPEATED FOR YOU:

E. O. 11652: N/ A

TAGS: ETRD BR

SUBJ: SOLUBLE COFFEE

REF: BRASILIA 2523

WE HAVE RECEIVED A NOTE FROM THE FONOFF ON SOLUBLE. TRANSLATION  
FOLLOWS. EMBASSY RECOMMENDATIONS ARE CONTAINED IN REFTEL.  
BEGIN TEXT.

MR. AMBASSADOR:

1. IN REFERENCE TO THE CONSULATIONS BETWEEN THE BRAZILIAN  
GOVERNMENT AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
CONCERNING THE EXECUTION OF THE SOLUBLE ACCORD, OF APRIL 2,  
1971, I HAVE THE HONOR TO ADDRESS MYSELF TO YOUR EXCELLENCY,  
CONFIRMING THE BRAZILIAN POSITION REGARDING THE ACCORD.

2. AS YOU KNOWN, THE POSITION OF THE BRAZILIAN GOVERNMENT  
WAS EXPLAINED TO YOU BY THE MINISTER OF INDUSTRY AND COMMERCE,  
AS WELL AS DURING THE BILATERAL CONFERENCES CONCERNING THIS  
SUBJECT IN ITAMARATY PALACE ON MARCH 21 AND 29.

3. IN SUMMARY, THE INTERPRETATION OF MY GOVERNMENT IS THAT THE  
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SOLUBLE ACCORD WAS ENTERED INTO BY THE TWO GOVERNMENTS WITH THE  
AIM OF STRENGTHENING THE INTERNATIONAL COFFEE AGREEMENT, TO BE  
IN EFFECT WHILE THIS AGREEMENT PREVAILED AND WHILE THE AGREEMENT  
WAS BEING FULLY IMPLEMENTED BY THE TWO GOVERNMENTS. THIS

POSITION IS REFLECTED IN PARAGRAPHS 3 AND 4 OF THE NOTE DATED JANUARY 11, 1973, THAT I ADDRESSED TO YOUR EXCELLENCY.

4. BESIDES, IT IS PROPER TO REMEMBER THAT:

A. THE SOLUBLE COFFEE ACCORD WAS THE CONSEQUENCE OF NEGOTIATIONS BETWEEN THE TWO GOVERNMENTS, IN LIGHT OF RECOMMENDATIONS MADE BY THE COMMISSION OF ARBITRATION THAT MET IN LONDON FOR THE PURPOSE OF ANALYZING THE " COMPLAINT PRESENTED AGAINST BRAZIL BY THE UNITED STATES OF AMERICA, ACCORDING TO ARTICLE 44 OF THE AGREEMENT."

( DOCUMENT ICC-13/8, OF DECEMBER 18, 1968).

B. THUS, THE " COMPLAINT PRESENTED AGAINST BRAZIL BY THE UNITED STATES OF AMERICA, ACCORDING TO ARTICLE 44 OF THE AGREEMENT", AS WELL AS THE CONCLUSIONS OF THE U. S. ARBITRATOR, MR. DAVID HERWITZ ( DOCUMENT ED-397/68, OF MARCH 3, 1969 - " CONCLUSIONS OF THE COMMISSION OF ARBITRATORS ESTABLISHED ACCORDING TO THE ARTICLE 44"), WERE BASED ON THE EXISTENCE OF QUOTAS, TO JUSTIFY THE " DISCRIMINATORY TREATMENT BY THE BRAZILIAN GOVERNMENT." IN OTHER WORDS, THE ARGUMENT OF THE NORTH AMERICAN GOVERNMENT, TO JUSTIFY THE DISCRIMINATORY TREATMENT, WAS BASED ON THE FACT THAT THE EXISTENCE OF QUOTAS IMPEDED THE ACCESS OF THE NORTH AMERICAN PRODUCER TO OTHER SOURCES OF CHEAPER GREEN COFFEE.

C. THE SYSTEM OF QUOTAS, WHICH CONSTITUTED THE BASIS OF THE INTERNATIONAL COFFEE AGREEMENT, WAS GREATLY WEAKENED WHEN THE INTERNATIONAL COFFEE COUNCIL, IN ITS SESSION OF AUGUST 1972, COULD NOT DEFINITELY FIX THE ANNUAL QUOTA FOR THE AGREEMENT YEAR 1972-73; LATER, IN ITS EXTRAORDINARY SESSION OF DECEMBER 1972, IN VIEW OF THE LACK OF AGREEMENT BETWEEN THE PRODUCERS AND CONSUMERS FOR ALL PURPOSES ALL THE LIMITATIONS ON QUOTAS WERE SUSPENDED AS OF DECEMBER 10.

5. FOR THE RECORD, I SHOULD POINT OUT THAT AT THIS EXTRA-ORDINARY SESSION OF THE COUNCIL THE EXPORTING COUNTRIES PRESENTED A PROPOSAL, WHICH DID NOT MEET WITH THE APPROVAL OF THE IMPORTING COUNTRIES, IN WHICH A LEVEL OF THE QUOTA CORRESPONDING TO AN ESTIMATE OF THE CONSUMPTION REQUIREMENTS LIMITED OFFICIAL USE  
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WOULD BE FIXED. THE PROPOSAL, MADE BY THE EXECUTIVE DIRECTOR OF THE INTERNATIONAL COFFEE ORGANIZATION, ASSURED A GUARANTEED SUPPLY BY THE POSSIBILITY OF PUTTING ON THE MARKET ALL THE STOCKS ON HAND OF PRODUCER COUNTRIES. LIKEWISE, IT SHOULD ALSO BE REMEMBERED THAT ON THIS OCCASION THE PRODUCER COUNTRIES REJECTED THE PROPOSAL MADE BY THE CONSUMER COUNTRIES, OF AUTOMATIC SUSPENSION OF THE QUOTAS, IF THE MARKET CONTINUED TO MAINTAIN THE LEVEL OF PRICES EFFECTIVE ON THE FIRST DAYS OF DECEMBER 1972. AMONG OTHER REASONS THIS REJECTION WAS MOTIVATED BY THE CONSIDERATION OF THE PRODUCER COUNTRIES THAT SUCH A PLAN WOULD BE CONTRARY TO THE LETTER AND THE SPIRIT OF THE INTERNATIONAL COFFEE AGREEMENT.

6. EVEN WITH ITS POSITION ON THE VALIDITY OF THE SOLUBLE COFFEE ACCORD, THE BRAZILIAN GOVERNMENT MADE EFFORTS DURING THE BILATERAL CONSULTATIONS IN MARCH AND IN LATER EXCHANGES TO DEVELOP A FAVORABLE SOLUTION WHICH WOULD BE MUTUALLY ACCEPTABLE TO THE TWO GOVERNMENTS.

7. THUS, IN THE MEETING OF MARCH 21, THE BRAZILIAN GOVERNMENT SUGGESTED THAT IF THE SOLUBLE COFFEE ACCORD WAS CONSIDERED NOT IN FORCE, THAT BY MEANS OF UNDERSTANDINGS BETWEEN THE BRAZILIAN INSTITUTE OF COFFEE AND U. S. COMPANIES COMPENSATORY PLANS COULD BE DEVELOPED. AT THE MEETING OF MARCH 29 THIS SUGGESTION WAS REJECTED BY THE U. S. GOVERNMENT, WHICH EXPRESSED ITS PREFERENCE FOR A SOLUTION ON THE GOVERNMENTAL LEVEL.

8. LATER, THROUGH THE MINISTRY OF FOREIGN AFFAIRS, A SUGGESTION FOR AN UNDERSTANDING AT THE GOVERNMENTAL LEVEL WAS DELIVERED ACCORDING TO WHICH IT WOULD BE CONSIDERED THAT THE AGREEMENT ON SOLUBLE COFFEE WOULD BE IN FORCE UNTIL DECEMBER 12, 1972 AND THE BRAZILIAN AUTHORITIES WOULD FULFILL THE REFERRED AGREEMENT UNTIL THAT DATE.

9. IN CONVERSATIONS HELD BY YOUR EXCELLENCY WITH THE MINISTER OF INDUSTRY AND COMMERCE ON APRIL 30, 1973, A NEW EFFORT WAS MADE TO ARRIVE AT A NEGOTIATED SOLUTION, WITH THE INTENTION OF CONTINUING THE AUTHORITY OF THE ACCORD UNTIL JANUARY 14, 1973, THAT IS, A PERIOD CORRESPONDING TO A QUARTER OF THE SOLUBLE COFFEE ACCORD, THE DATE THAT IT LIMITED OFFICIAL USE  
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WOULD BE NECESSARY TO FURNISH GREEN COFFEE IN THE QUANTITIES DETERMINED BY THE ACCORD.

10. IN VIEW OF THE FACT THAT THE U. S. PERSISTS IN ITS INTERPRETATION THAT THE " AGREEMENT ON SOLUBLE COFFEE" IS STILL IN FORCE, IT REMAINS FOR ME FORMALLY TO STATE TO YOUR EXCELLENCY THAT THE BRAZILIAN GOVERNMENT CONSIDERS THE REFERRED TO AGREEMENT ANNULLED ( DERROGADO) SUCH THAT IT DOES NOT CONSIDER ITSELF OBLIGATED TO PROVIDE GREEN COFFEE UNDER THE TERMS REQUIRED BY THIS AGREEMENT FOLLOWING OCTOBER 15, 1972. NEVERTHELESS, TAKING INTO ACCOUNT THE FACT THAT THE REQUEST FOR CONSULTATIONS, PROVIDED FOR BY THE EXCHANGE OF NOTES OF APRIL 2, 1971, WAS MADE BY THE GOB ONLY AT THE END OF THE QUARTER OCTOBER 15 TO JANUARY 14, 1973, THE COMPETENT BRAZILIAN AUTHORITIES AGREE TO FURNISH GREEN COFFEE TO U. S. FIRMS UNDER THE CONDITIONS ESTABLISHED BY THE " AGREEMENT ON SOLUBLE COFFEE" SO AS TO INCLUDE COMPLETELY THE ABOVE MENTIONED QUARTER.

11. FOR ALL INTENTS AND PURPOSES, NEVERTHELESS, THE PRESENT NOTE CONSTITUTES A FORMAL DENUNCIATION BY THE GOB OF THE

" AGREEMENT ON SOLUBLE COFFEE" ENTERED INTO BY THE TWO GOVERN-  
MENTS BY THE EXCHANGE OF NOTES OF APRIL 2, 1971.

12. I WISH, HOWEVER, TO ASSURE YOUR EXCELLENCY OF THE DESIRE  
OF THE GOB TO CONTINUE TO SEARCH BILATERALLY FOR UNDERSTANDINGS  
WITH THE U. S. GOVERNMENT ON MATTERS RELATIVE TO THE INTER-  
NATIONAL COFFEE MARKET, AS WELL AS TO RENEW ITS STRONG DESIRE  
IN RENEGOTIATING, IN AS SHORT A TIME AS POSSIBLE, AN  
INTERNATIONAL AGREEMENT WHICH WILL ORGANIZE IN A MANNER  
ADEQUATE FOR THE INTERESTS OF PRODUCERS AND CONSUMERS, THE  
INTERNATIONAL MARKET FOR COFFEE.

I WOULD LIKE TO TAKE THIS OPPORTUNITY TO RENEW TO YOUR  
EXCELLENCY ASSURANCES OF MY HIGHEST CONSIDERATIONS. END TEXT:  
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